Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	**)**	
Creation of a Low Power Radio Service	**)**	**MM Docket No. 99-25**
	)	

To: The Commission

COMMENTS OF KYLE MAGRILL IN
THE FIFTH REPORT & ORDER & FOURTH FURTHER NOTICE OF PROPOSED RULE MAKING AND FOURTH ORDER ON RECONSIDERATION

Possible use of LPFM services other than 100Watt (LP100) facilities:

In a letter dated 03-07-2012, the Amherst Alliance seeks to clarify its position on the proposed use of LP10 and LP250 stations. In the letter, Amherst states that they support the concept of LP10 stations in dense urban areas where the population coverage can be high and the local spectrum is so crowded as to preclude very many LP100 stations. Letters and Exparte notices by Prometheus Radio Project and Rec Networks substantially support Amherst's position. In this letter, I reinforce my earlier position supporting the 10Watt LP10 service and reinforce, in part, other letters filed recently.

Several studies, including some initial studies submitted in an earlier filing by me, have now demonstrated the potential value of LP10 stations in covering vast populations within dense urban areas. In many cases, LP10 stations can exist at locations where no LP100 can be authorized. If it is the Commission's goal to allow as many independent voices on the air as possible, then the potential of the LP10 service cannot be ignored. As the merits of the service have been well discussed in previous filings, there is no need to state them again.

I disagree with Amherst, Prometheus and Rec Networks on two minor points. The consensus of these entities is that LP10 stations should be permitted only in urban areas. I can see no value in placing an artificial limit on the LPFM service without first showing good cause as to why such a limit is beneficial. Even in rural or semi urban areas, there can be very good reasons why a 10W station might be preferred to a 100W station. An example of this could be where a tower or mast is available in the center of a population zone for a 10W station whereas a 100W station might have to exist outside of the population core. This situation can easily be shown on several channels in my local market. There is a misconception, that may (or may not) extend even to some FCC staff, that higher power equals better coverage. The reality is that better location is more important in the LPFM service than is higher power. Higher

power only results in improved coverage when the location is optimized for both power levels and all other things are equal. Additionally, the LP10 category allows for potential frequency re-use within a market, thus potentially allowing more diversity in each market.

Although translators are a different service, there are many similarities between the two and lessons from the older translator service might be well put to use in the fledgling LPFM service. Although the maximum power for translators is typically 250W, they do not all operate with the equivalent of 250W. In fact, some operate at power levels as low as 1W, providing very localized coverage. This is typically done in order to fit the translators into the local spectrum just as the LP10 service can allow LPFM stations to better fit into the local spectrum. Why would we want to restrict the LPFM service when it is acceptable to have low powers in the translator service? Instead of trying to force a particular type of service in specific locations, I advocate a flexible approach where LPFM stations could apply to downgrade, (or upgrade, spectrum permitting) as desired. This market based approach puts the decision about the type of facility best suited to an area in the hands of the locals who know their communities the best.

If new applications for LPFMs all were required to initially be LP10 stations, the maximum number of possible applicants could be granted licenses. Those stations that have enough available spectrum to become LP100 stations could then apply to upgrade, if desired. In this way, the maximum spectrum efficiency is achieved because the greatest diversity is achieved while also permitting clear-spaced stations to serve larger areas.

Future Possibility of LP250 Service:

Although the Commission did not authorize a 250W class of LPFM service, it seems that such a class may be inevitable at some future time as the LPFM and translator services become technically closer to each other. Currently, LPFM services can only cover select neighborhoods in most towns with more than 10,000 people. There is an unfilled need for a class of station that can cover an entire town of modest size. Some LPFM stations have compensated for this by getting themselves on translators, but such opportunities are rare because of the non-commercial nature of the LPFM service. Thus, I believe that there would be a very strong benefit to the public from a 250Watt LPFM service.

Should such a service become authorized at some time, I see no reason why those should be restricted to rural areas, as has been suggested. This is the second area in which I differ from the above mentioned groups. If the available spectrum exists in an urban setting, the station should have the option of using it. This is the same concept where a class A station can upgrade to a Class B or C if the spectrum is available. It makes no difference if the station is rural or urban. If the station can find a way to upgrade, it is allowed to do so. The counter argument is that by allowing one station to upgrade, some adjacent or co-channel situation might have existed for another

LPFM station that will be precluded. This could happen, but requiring initial applications to be for LP10 stations allows expressions of interest in adjacent channels to be fulfilled during the filing window. If there are no mutually exclusive applications that would preclude the upgrade, then the public interest, convenience and necessity is being best served by allowing the upgrade since more people will receive an LPFM radio service.

Second Channel Adjacency Waivers:

Currently, translators operate at up to 250Watts, some fill-in translators with antenna heights in excess of 200 meters. These facilities are permitted to use D/U ratios to establish no interference. This system has been employed for years with minimal interference issues arising from its use. It is inconceivable that any LPFM station could cause interference in the identical circumstances as translators. Accordingly, 2nd adjacent channel waivers based on a D/U ratio of –40dB has been proven effective and should be embodied in the LPFM rules.

Co-ownership of translators and LPFM stations:

Any translator rebroadcasting an LPFM station should be required to keep the translator's coverage within the defined market boundaries, or county, of the originating LPFM station. Since many small and medium markets are quite large, geographically, it is impossible for one signal to cover the entire market. Further, some listeners will not listen to a station that cannot be received at home, in the car and at work. Therefore, it is beneficial for some LPFM stations to have an effective method for reaching their entire community, not just portions of it. Therefore, it is reasonable to allow LPFM stations to co-own translators.

Localism in the LPFM service:

In an exparte notfication of March 14, 2012, Prometheus Radio Project's representative proposed that a localism requirement would be desirable as a way to ensure that LPFM station's meet the community needs and the public's interest. This localism concept is deeply flawed and would have destructive consequences for LPFM stations. In Prometheus's view, LPFM stations are best used as a vehicle for community activism. In this role, oppressed masses can be organized by taking to the airwaves to disseminate information that, presumably, is not available through more mainstream media. While this may be a good role for a few LPFM stations, most LPFMs are not involved in this sort of activity to a significant degree. One purpose of LPFM stations is to be experimental. Each tries to find its place within the community. Sometimes, that might mean live and local. Other times it might mean doing an automated format. Sometimes, it will be a mix. There is no reason to prefer the live format (or one that is locally produced for some portion of the broadcast week) to one that may be filling a bigger niche by playing automated programming. In our town, there are several LPFM stations. Each has their own unique view of their role in the local broadcasting scene.

One station plays a mix of recorded, shows, many of which are locally produced and then time shifted for air later that day or even later in the week. A local religious station exclusively airs programs that they have hand selected from their ministry. The station manager spends about 5-6 hours every week scheduling select programs to assist their church in its teachings after working his full-time+ day job. This is a dedicated community broadcaster, despite the fact that his programs aren't live or local. Another LPFM station does a fully-automated music format that is not aired on any other local station. Each of these stations does a good job of filling a niche in the town and each broadcaster is serious about what they are doing. If there were a requirement for local programming, two of the three LPFMs would probably have to quit broadcasting, even though they serve to fill a void in the community. Each of these decisions is made at the local level, based on the perceived needs of the community and that is exactly the way it should be, regardless of the format. Many commenters have participated in comment writing campaign supporting localism. Some of them apparently believe that a localism requirement will reduce competition for new LPFM channels. So it may be that this self-serving goal will come to pass, but localism is a very poor measure of quality. I would rather listen to a station playing a professional sounding format from an automation system or being fed by a network than a poorly executed local option. I think the poorly executed local option is exactly what will happen in the majority of cases.

A localism requirement is likely to be highly destructive. Many LPFMs simply lack the resources to produce local shows. To saddle LPFMs with rules that single them out for special programming requirements is to burden the LPFM stations with onerous rules that may drive them off the air. We do not require this of full service stations. Why would we saddle LPFMs with a burden that would surely drive many of them broke? If the goal is to promote the LPFM service, which is already struggling, then this concept is exactly the wrong thing to do. Prometheus' perception of the LPFM role as an activist medium fails to acknowledge the public interest from all types of LPFM service and they ignore the financial and operational realities that most LPFM stations have to live with every day. The result would be fraught with unintended consequences that could decimate the LPFM service.

Summary:

10W LPFM stations, which have already been authorized by the Commission as part of the original LPFM proceedings, should be utilized to:

1. Allow more stations on the air.
2. Permit greater flexibility in where to place LPFM stations.
3. Promote/allow frequency re-use in dense urban areas

The possibility of 250W LPFM stations should be considered because they potentially allow LPFM stations to cover larger communities.

All future LPFM windows initially should be for 10W stations. Where no mutual exclusivity exists and spectrum is available, an upgrade to 100W (or 250W) could be accomplished by a simple one-step application. There should be no restrictions on where 10W or 100W stations can exist, other than to meet the required spacing criteria.

There should be an easy upgrade/downgrade process for LPFM stations so that stations can find the best sites for their facilities.

2nd channel Adjacency waivers should be added to the LPFM rules, similar to those governing translators.

Cross-ownership of translators and LPFM stations is a reasonable idea that can help some stations, particularly those is large geographic markets, reach the full populations of those communities.

Establishing a localism requirement would likely be very detrimental to the majority of LPFM broadcasters. The one group of broadcasters that can least afford additional expenses is LPFM. The idea that LPFM stations need to provide local content to serve the public interest is unfounded, untrue and belies the local efforts of many LPFM broadcasters who are making valiant efforts to serve their communities, often at their own expense.

Respectfully Submitted,

Kyle Magrill